

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

JOANN KROEPIL, *Applicant*

vs.

VONS, Administered by ALBERTSONS HOLDINGS, *Defendants*

**Adjudication Number: ADJ6977398
Santa Ana District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Applicant, who is representing herself. Seeks reconsideration of a March 15, 2022 Minute Order continuing a mandatory settlement conference (MSC). We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, the petition seeks reconsideration of a non-final order and will be dismissed.

An MSC is a pre-trial hearing. If the March 15, 2022 MSC had been completed, the parties would have filled out a pre-trial conference statement and listed the exhibits they intended to submit at trial. Exhibits are submitted and put into evidence at a trial. However, the MSC was continued and the pre-trial conference statement was not submitted. Discovery was not closed. The WCJ's order that the mandatory settlement conference be continued is not a final order.

A petition for reconsideration may properly be taken only from a "final" order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) A "final" order has been defined as one that either "determines any substantive right or liability of those involved in the case" (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]) or determines a "threshold" issue that is fundamental to the claim for benefits. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) Interlocutory procedural or evidentiary decisions, entered in the midst of the workers' compensation proceedings, are not considered "final" orders. (*Id.* at p. 1075 ["interim orders,

which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’ ”]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not include intermediate procedural orders”].) Such interlocutory decisions include, but are not limited to, pre-trial orders regarding evidence, discovery, trial setting, venue, or similar issues.

Here, the WCJ’s decision solely resolves an intermediate procedural or evidentiary issue or issues. The decision does not determine any substantive right or liability and does not determine a threshold issue. Accordingly, it is not a “final” decision and the petition for reconsideration will be dismissed.

Finally, we note that when a petition for reconsideration seeking reconsideration of a non-final order is filed, the WCJ cannot act while the petition is pending at the Appeals Board. In the future, applicant should seek removal rather than reconsideration of non-final orders.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JUNE 6, 2022

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**FORZA LIEN
JOANN KROEPIL
JEFFREY SELLBERG**

MWH/oo

I certify that I affixed the official seal of
the Workers' Compensation Appeals
Board to this original decision on this date.

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